

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JERRI BEITEL,	)	CASE NO. 5:16-CV-2649
	)	
Plaintiff,	)	
	)	
vs.	)	JUDGE DONALD C. NUGENT
	)	
COMMISSIONER OF SOCIAL SECURITY	)	<u>ORDER ADOPTING MAGISTRATE'S</u>
ADMINISTRATION,	)	<u>REPORT AND RECOMMENDATION</u>
	)	
Defendant.	)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Kathleen B. Burke. The Report and Recommendation (ECF #15), issued on August 30, 2017, is hereby ADOPTED by this Court.

Plaintiff, Jerri Beitel (hereafter "Ms. Beitel"), sought review of the Commissioner's decision denying in part her applications for Supplemental Security Income ("SSI") and Disability Insurance Benefits ("DIB"). (ECF #1). This Court has jurisdiction over this matter pursuant to 42 U.S.C. § 405(g), and referred the case to Magistrate Judge Burke pursuant to Local Rule 72.2.

In the Report and Recommendation, Magistrate Judge Burke found that the Administrative Law Judge ("ALJ") failed to properly apply the treating physician rule when she did not assign controlling weight to the physical functional capacity report of Ms. Beitel's treating physician, Dr. Patel. Therefore, Magistrate Judge Burke recommends that "the Court remand this matter for further proceedings to ensure that the requirements of the treating physician rule are met." (ECF #15, p. 20).

Magistrate Burke also addressed Ms. Beitel's argument that the ALJ's credibility assessment of Ms. Beitel's testimony regarding her ability to perform daily living activities was flawed. (ECF #15, p. 20-22). However, in light of the decision to remand this matter, this Court will not address this argument. (*See, e.g., Trent v. Astrue*, 2011 WL 841538, \*7 (N.D.Ohio Mar. 8, 2011))(declining to address the plaintiff's remaining assertion of error because remand was already required and, on remand, the ALJ's application of the treating physician rule might impact his findings under the sequential disability evaluation).

The Defendant has notified this Court that no Objection to the Report and Recommendation will be filed. (ECF #16).

This Court has reviewed *de novo* the Report and Recommendation, *see Ohio Citizen Action v. City of Seven Hills*, 35 F.Supp.2d 575, 577 (N.D.Ohio 1999), and ADOPTS the Report and Recommendation in its entirety, without objection. The Commissioner's decision is reversed and this matter is remanded for further proceedings in accordance with this opinion.

IT IS SO ORDERED.

  
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DONALD C. NUGENT  
United States District Judge

DATED: October 31, 2017